

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FOREST STEWARDSHIP COUNCIL –
U.S., et al.,

Plaintiffs,

v.

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE, et al.,

Defendants.

NO. 08-1358RAJ

ORDER

This matter comes before the court on Plaintiffs’ motion to strike (Dkt. # 26). The court has considered the parties’ briefing on the issue, and heard from the parties at oral argument. The court DENIES the motion (Dkt. # 26), but orders the parties to provide supplemental briefing as to the evidentiary value of the OLC Memo.

Though the Plaintiffs’ moved to strike the Defendants’ notice of supplemental authority (Dkt. # 25) on the grounds that the newly submitted evidence (the OLC Memo) was not “authority” and was not newly discovered, the Plaintiffs’ reply brief and oral argument indicated that they do not object to the court considering the OLC Memo as factual evidence.

Thus, the court will consider the OLC Memo for purposes of ruling on the pending motion to dismiss (Dkt. # 7). Due to the late filing of the OLC Memo, the court will allow the parties to submit supplemental briefing on the narrow issue of the OLC Memo's effect on the issues presented in the motion to dismiss. Any supplemental briefs shall be filed no later than April 9, 2009, and shall be no longer than four pages. Unless the court orders otherwise in the future, no responsive briefing shall be submitted.

DATED this 3rd day of April, 2009.

Richard A. Jones

The Honorable Richard A. Jones
United States District Judge